

# CANDIDATES' GUIDE FOR CITY ELECTIVE OFFICE



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This guide is intended to be used as a supplement to the Fair Political Practices Commission's [Manual 2](#)

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## I. INTRODUCTION

This guide summarizes local laws applicable to candidates for San Francisco City elective office. This guide does not apply to candidates for judgeships, Bay Area Rapid Transit (BART) Board, or county central committees, which are not City elective offices. It is intended to answer the most frequently asked questions about applicable laws, and is, therefore, necessarily general. Candidates for the Board of Supervisors should also consult the [Supplemental Guide](#) for Board of Supervisor Candidates Seeking Public Funding and candidates for Mayor should also consult the [Supplemental Guide](#) for Mayoral Candidates Seeking Public Funding. These guides are available at the Ethics Commission and on its website. Any specific questions regarding these laws should be directed to the San Francisco Ethics Commission at (415) 252-3100 or [ethics.commission@sfgov.org](mailto:ethics.commission@sfgov.org).

In addition to the Ethics Commission, agencies that administer and enforce laws regulating recipient committees and elections include the California Secretary of State (SOS), the Fair Political Practices Commission (FPPC), and the San Francisco Department of Elections. They may be contacted as follows:

SOS	(916) 653-6814	<a href="http://www.sos.ca.gov">www.sos.ca.gov</a>
FPPC	(916) 275-3772	<a href="http://www.fppc.ca.gov">www.fppc.ca.gov</a>
SF Dept of Elections	(415) 554-4375	<a href="http://www.sfelections.org">www.sfelections.org</a>

The FPPC's [Campaign Disclosure Manual 2](#) Information for Local Candidates covers in more detail the state's requirements for candidates. Copies of that manual are also available at the Ethics Commission's office and online.

**Please be aware that additional requirements and restrictions may apply. To the extent this guide conflicts with state or local law, the law controls.**

## II. WHO IS A CANDIDATE FOR CITY ELECTIVE OFFICE?

San Francisco City elective offices include: Mayor, Members of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender, Members of the Board of Education of the San Francisco Unified School District and Members of the Governing Board of the San Francisco Community College District. Any person running for one of these offices is a candidate for City elective office.

See [S.F. Campaign & Governmental Conduct \("C&GC"\) Code Sec. 1.104](#).

## III. WHAT DO I NEED TO DO TO GET STARTED?

### A. Declaring Intent To Be a Candidate and To Solicit and Accept Contributions

Before a candidate solicits or accepts campaign contributions (including loans) or uses any personal funds for campaign purposes (excluding filing fees), the candidate must file

a *Candidate Intention Statement (Form 501)* with the San Francisco Ethics Commission and a *Declaration of Intent to Solicit and Accept Contributions* with the San Francisco [Department of Elections](#). A candidate may run for only one City elective office in a given election.

See Cal. Gov't Code [§ 85200](#); S.F. C&GC Code § 1.122.

## **B. Training for Candidates and Committee Treasurers**

Every committee must have a treasurer. The committee may not accept contributions or make expenditures before a treasurer is appointed or while the treasurer's post is vacant, even if there is an assistant treasurer. A candidate may serve as the treasurer of his or her candidate committee. FPPC Manual 2 discusses in detail the responsibilities of a candidate and treasurer.

Every candidate and his or her treasurer must complete a training program developed by the Ethics Commission prior to the election at which the candidate's name will appear on the ballot. An assistant treasurer who signs campaign statements is also required to complete this training. The Commission welcomes and encourages fundraisers, campaign consultants and other representatives to attend a training session as well. After completing the training requirement, candidates, treasurers and assistant treasurers must submit a Certification of Training Form ([Form SFEC-107](#)) to the Ethics Commission.

A candidate/treasurer may satisfy the training requirement by attending a live training held by the Ethics Commission or by viewing the Ethics Commission's training online. The dates of [training sessions](#) are posted on the Commission's website.

See S.F. Campaign & Governmental Conduct ("S.F. C&GC") Code § 1.107 and S.F. Ethics Commission ("SFEC") [Regulations](#) §§ 1.107-1, 1.107-2 and 1.107-3.

## **C. Establishing a Campaign Bank Account**

The treasurer of each candidate committee must establish a campaign contribution trust account at an office of a bank located in the City and County of San Francisco. All expenditures for the City elective office, including those made with personal funds, must be made from this account. See FPPC's Campaign **Disclosure Manual 2** for detailed information on reimbursement of campaign expenditures made by individuals other than the candidate. A candidate may not use funds from the campaign bank account for personal use and may not be reimbursed from the campaign bank account for campaign-related expenditures.

See Cal. Gov't Code [§ 85201](#); S.F. C&GC Code § 1.108.

#### **D. Establishing Internal and External Recordkeeping Methods**

An accurate and organized record must be kept of all campaign receipts and expenditures. All individuals who handle receipts and make expenditures must be aware of and practice the record keeping procedures required by the Political Reform Act (“PRA”) and **FPPC regulations** outlined in FPPC Campaign **Disclosure Manuals**. While other committee members may be involved, the candidate and treasurer remain legally responsible for the accuracy of the records.

Committees must keep all records, including original source documentation, for a period of four years from the date the campaign statement relating to the records was filed. Committees may be audited by the Ethics Commission, the FPPC or the Franchise Tax Board. For a detailed discussion of the types of records required to be maintained, see FPPC Campaign Disclosure Manual 2 and the Ethics Commission’s **Records Required for Audit and Guidelines for Organizing Records** guide. Committees are required to provide records to the Ethics Commission within **ten business days** of a request by the Ethics Commission.

See Gov’t Code [§ 84104](#); 2 Cal. Code of Regs. [§ 18401](#); and S.F. C&GC Code [§ 1.109](#).

#### **E. Disclosing Financial Interests**

Each candidate must file a *Statement of Economic Interests* (**Form 700**) with the **Department of Elections** disclosing investments, interests in real property, and income received during the immediately preceding 12 months. This statement must be filed by the deadline for filing nomination papers. The filing of a *Statement of Economic Interests* may not be required if the candidate has filed a statement within the past 60 days with Elections.

See Cal. Gov't Code [§ 87201](#).

#### **F. Deciding Whether to Comply with Voluntary Spending Limits**

The Voluntary Expenditure Ceiling is an optional spending limit. A candidate for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District, or the Governing Board of the San Francisco Community College District may accept the applicable voluntary expenditure ceiling. Candidates for the Board of Supervisors or Mayor may not accept a voluntary expenditure ceiling – instead, such candidates may be subject to an individual expenditure ceiling if the Ethics Commission certifies them to receive public funds.

A candidate for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District who wishes to accept

the applicable voluntary expenditure ceiling must file an *Acceptance of Voluntary Expenditure Ceiling Statement* (**Form SFEC-128**) with the Ethics Commission indicating that he or she accepts the applicable expenditure ceiling by the **deadline** for filing nomination papers. Once filed, this statement may not be withdrawn. The Ethics Commission will post on its website a list of candidates who have accepted the voluntary expenditure ceiling.

Any candidate who files a statement accepting the spending limit and makes campaign expenditures that exceed the limit at a time when the limit has not been lifted will be subject to penalties.

Any candidate committee that receives contributions, makes expenditures, incurs expenses or has funds in its campaign trust account that exceed 100 percent of the applicable expenditure ceiling must, within 24 hours of exceeding 100 percent of the applicable expenditure ceiling, file **Form SFEC-134(b)** with the Ethics Commission.<sup>1</sup>

Within 24 hours after receiving such notice, the Ethics Commission will lift the voluntary expenditure ceiling if:

(1) a candidate seeking election to the same City elective office, who has declined to accept the voluntary expenditure ceilings, receives contributions or makes qualified campaign expenditures in excess of 100 percent of the applicable voluntary expenditure ceiling; or

(2) a person or persons make expenditures or payments, or incur expenses for the purpose of making independent expenditures, electioneering communications or member communications that total more than 100 percent of the applicable voluntary expenditure ceiling, and those expenditures or communications clearly identify a candidate seeking election to the same City elective office; or

(3) a candidate seeking election to the same City elective office, who has accepted the voluntary expenditure ceiling, makes qualified campaign expenditures in excess of 100 percent of the voluntary expenditure ceiling.

If the Commission lifts the limit, the Commission will inform every candidate for that office that the voluntary expenditure ceiling has been lifted.

The provisions related to the raising of the individual expenditure ceilings are considerably different for candidates for Mayor and the Board of Supervisors who seek public financing. These candidates should **refer to** the ***Supplemental Guide for Mayoral***

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<sup>1</sup> This requirement applies only if at least one candidate for the City elective office has filed a statement with the Ethics Commission to accept the applicable voluntary expenditure limit.

**Candidates Seeking Public Funding** or the **Supplemental Guide for Board of Supervisors Candidates Seeking Public Funding**.

See S.F. C&GC Code §§ 1.128 & 1.134(b).

The voluntary expenditure limits are as follows:

Office	General
City Attorney, Treasurer, District Attorney, Sheriff, Assessor and Public Defender	\$243,000
Board of Education and Community College District	\$104,000

See S.F. C&GC Code §§ 1.128 & 1.130.

**G. Additional Notification Requirements Pertaining to Candidates for Board of Supervisors**

All candidates for the Board of Supervisors must file a *Statement of Participation or Non-Participation in Public Financing Program* [Form **SFEC 142(a)**] no later than 3 calendar days after the deadline to file nomination papers in the year of the applicable election to indicate whether they intend to participate in the public financing program. The form may not be amended or withdrawn after that deadline. Indicating an intent to participate on *Statement of Participation or Non-Participation in Public Financing Program* form does not qualify a candidate for public funds. In order to qualify for public funding, a candidate must submit an application and meet eligibility requirements, as explained in the **Supplemental Guide for Board of Supervisor Candidates Seeking Public Funding**.

Candidates for the Board of Supervisors must notify the Ethics Commission within 24 hours of receiving or spending certain amounts (outlined below) of money, regardless of whether the candidate receives public funding.

Initial Threshold Report (\$10,000 threshold)

Each candidate for the Board of Supervisors (including publicly funded candidates) must file the **Threshold Form**

- within 24 hours of receiving contributions to be deposited into the Campaign Contribution Trust Account or making expenditures that in the aggregate equal or exceed \$10,000.

Subsequent Threshold Filing(s) (\$100,000 threshold and each subsequent \$10,000 threshold)

In a district where at least one candidate is certified as eligible to receive public funds, each candidate (including publicly funded candidates) must file the **Threshold Form** as follows:

(1) within 24 hours of:

- receiving \$100,000 or more (monetary contributions, loans, in-kind contributions and public funds); or
- spending \$100,000 or more (paid and unpaid expenditures).

And thereafter,

(2) within 24 hours of each time

- receipts (monetary contributions, loans, in-kind contributions and public funds); or
- expenditures (paid and unpaid expenditures)

reach an additional \$10,000 amount (i.e., when receipts or expenditures, whichever comes first, reach \$110,000, \$120,000, \$130,000, etc.)

Any person who wishes to receive written notification from the Ethics Commission that the Commission has certified a candidate for the Board of Supervisors as eligible to receive public funds should complete and submit to the Ethics Commission **Form SFEC-152(c)** or send an email to [ethics.commission@sfgov.org](mailto:ethics.commission@sfgov.org).

See S.F. C&GC Code § 1.152(a).

#### **H. Additional Notification Requirements Pertaining to Candidates for Mayor**

All candidates for Mayor must file a *Statement of Participation or Non-Participation in Public Financing Program* form [**Form SFEC 142(a)**] by the deadline to file nomination papers for the applicable election to indicate whether they intend to participate in the public financing program. The form may not be amended or withdrawn after that deadline. Indicating an intent to participate on a *Statement of Participation or Non-Participation in Public Financing Program* form [**Form SFEC 142(a)**] does not qualify a candidate for public funds. In order to qualify for public funding, a candidate must submit an application and meet eligibility requirements, as explained in the **Supplemental Guide for Candidates for Mayor Seeking Public Funding**.

Candidates for Mayor must notify the Ethics Commission within 24 hours of receiving or spending a certain amount of money, regardless of whether the candidate receives public funding.

Initial Threshold Report (\$50,000 threshold)

Each candidate for Mayor (including publicly funded candidates) must file the [Threshold Form](#)

- within 24 hours of receiving contributions to be deposited into the Campaign Contribution Trust Account or making expenditures that in the aggregate equal or exceed \$50,000.

Subsequent Threshold(s) (\$1,000,000 threshold and each subsequent \$50,000 threshold)

If at least one candidate is certified as eligible to receive public funds, each candidate (including publicly funded candidates) must file the [Threshold Form](#) as follows:

(1) within 24 hours of:

- receiving \$1,000,000 or more (monetary contributions, loans, in-kind contributions and public funds); or
- spending \$1,000,000 or more (paid and unpaid expenditures).

And thereafter,

(2) within 24 hours of each time

- receipts (monetary contributions, loans, in-kind contributions and public funds); or
- expenditures (paid and unpaid expenditures)

reach an additional \$50,000 amount (i.e., when receipts or expenditures, whichever comes first, reach \$1,050,000, \$1,100,000, \$1,150,000, etc.)

Any person who wishes to receive written notification from the Ethics Commission that the Commission has certified a candidate for Mayor as eligible to receive public funds should complete and submit to the Ethics Commission [Form SFEC-152\(c\)](#).

See S.F. C&GC Code § 1.152(b).

#### IV. WHAT ARE THE BASIC CAMPAIGN REPORTING REQUIREMENTS?

FPPC [Manual 2](#) discusses the filing of various [FPPC forms](#) (Statement of Organization Form 410, Semi-Annual Campaign Statements Form 460, and Pre-Election Statements Form 460) along with requirements for candidates who do not raise or spend \$2,000 or more as required under state law. The section below discusses additional requirements at the local level as they relate to the filing of forms by San Francisco candidates and candidate committees.

##### A. Statement of Organization ([Form 410](#))

If a candidate raises \$2,000 or more, he or she must file a *Statement of Organization (Form 410)* with the SOS and the Ethics Commission within 10 days of receiving contributions totaling \$2,000 or more. (This statement may be filed before a candidate receives \$2,000 if the candidate contemplates receiving \$2,000 or more.) After the

**Form 410** is filed, the SOS will issue an identification number (FPPC ID#) that the candidate must use on all subsequent filings.

*Note:* If a candidate does not plan to raise \$2,000, the candidate may elect to file a **Form 470**, which is discussed in section D below, rather than a *Form 410*. Candidates with controlled committees may not use the *Form 470*.

FPPC Regulation [§ 18402](#) requires candidate-controlled committees to include the following information in the committee's name: the last name of the controlling candidate, the office sought and the year of the election.

See Cal. Gov't Code § 84101.

## **B. Semi-Annual Campaign Statements (Form 460)**

Candidates must file semi-annual campaign statements disclosing the receipts and expenditures of their campaign committees whether or not the candidate receives contributions or makes expenditures during the reporting period. A candidate who has filed a *Form 410* must file a semi-annual campaign statement using a *Form 460 Recipient Committee Campaign Statement*.

Candidates who have not filed a *Form 410* because they expect neither to receive contributions totaling more than \$2,000 nor make expenditures totaling more than \$2,000 during the calendar year may file an *Officeholder and Candidate Campaign Statement – Short Form (Form 470)* instead of the *Form 460*.<sup>2</sup>

See Cal. Gov't Code [§§ 84200](#) and [84206](#).

Due dates for the semi-annual campaign statements may be found on the FPPC's [web-site](#).

Note: Forms must include information for the entire reporting period. If your *Form 460* includes less than complete information for the entire period covered, you will be required to amend your Form and you may be subject to late fees or penalties.

## **C. Pre-Election Statements (Form 460)**

Candidates are also required to file pre-election statements to disclose the receipts and expenditures of their campaign committees at specific intervals prior to an election. If a candidate expects to or has already raised or spent \$2,000 or more, he or she will need

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<sup>2</sup> *Form 470* is filed once each calendar year and covers the entire year. If a candidate files a *Form 410* because the candidate expects to raise \$2,000 but at a later time no longer expects to raise \$2,000, the candidate can begin filing the *Form 470* **only** if the candidate files a termination statement, terminating the original *Form 410*.

to file a *Recipient Committee Campaign Statement (Form 460)* by the deadlines listed on the [Ethics Commission website](#).

#### **D. Candidates Who Do Not Raise \$2,000 or More and Who Do Not Spend \$2,000 of Their Own Money**

If a candidate does not anticipate raising or spending \$2,000<sup>3</sup> or more in a calendar year, s/he does not need to form a committee (by filing *Form 410*) and may file an *Officeholder and Candidate Campaign Statement – Short Form (Form 470)* instead of a *Form 460*.

Personal funds used to pay filing or ballot statement fees are not counted toward the \$2,000 committee qualification threshold. If a candidate does not solicit or raise **any** money and personal funds are used only to pay filing or ballot statement fees, the candidate is not required to file the Form 501.

If **any** monetary contributions will be received from others, a separate campaign bank account must be established.

If the Form 470 is filed and the candidate then raises or spends \$2,000 or more in that calendar year, the candidate must file the **Form 470 Supplement<sup>4</sup>**, the **Form 410**, and begin filing the **Form 460**.

See Cal. Gov't Code §§ 82007, 82025, 84200, 84200.5, 84200.8 and 84206.

#### **E. Electronic Filing of Campaign Statements**

All San Francisco committees, including candidate committees, must file their FPPC campaign statements electronically with the Ethics Commission. A committee is required to continue filing electronic campaign disclosure statements, regardless of the committee's level of financial activity, until the committee files a statement of termination.

Committees must use the approved .CAL format to file electronic statements. To comply with the electronic filing requirement, committees may use the Commission's free NetFile system or a private software vendor. Information about how to use NetFile is available on the Commission's website at <https://sfethics.org/compliance/e-file>. For questions regarding the Commission's system, please contact the Ethics Commission. For a list of qualified third-party software vendors, please see the Secretary of State's

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<sup>3</sup> A candidate's use of his or her own money to pay for the filing fee for his or her candidacy does not count towards the \$2,000 threshold for qualifying as a committee.

<sup>4</sup> Upon filing a Form 470 Supplement, the candidate must send written notice within 48 hours, to all other candidates in the race (see Form 470 Supplement instructions).

website or visit the electronic filing section of the Ethics Commission's website. FPPC [Forms 460](#) and [497](#) must be filed electronically.<sup>5</sup> See S.F. C&GC Code § 1.112.

#### **F. Duty to Amend and Supplement**

Candidates have a duty to timely amend and/or supplement any incorrect or changed information filed on a campaign report or statement. If there is a change in the committee's treasurer's position, contact information (address or telephone number), or other information, the committee must provide the updated information by filing an amendment to the [Form 410](#).

See Cal. Gov't Code § 81004.5.

#### **G. Payment of Accrued Expenses**

Any candidate who accepts goods or services on credit must pay for such accrued expenses in full no later than 180 calendar days after receipt of a bill or invoice and in no event later than 180 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered, unless it is clear from the circumstances that the failure to pay is reasonably based on a good faith dispute. Each calendar day any accrued expense remains partially or wholly unpaid after the 180 days constitutes a separate violation.

Loans and accrued expenses must be reported on each campaign statement until the amounts are paid off or forgiven.

See S.F. C&GC Code § 1.118.

#### **H. Campaign Consultant Qualification**

Individuals who are supporting a campaign may qualify as campaign consultants and may have filing requirements of their own. These individuals qualify as a campaign consultant if they are paid \$1,000 or more within a calendar year for "**Campaign Management**" Services or "**Campaign Strategy**" Services:

**"Campaign Management"** - means conducting, coordinating, or supervising a campaign to elect, defeat, retain or recall a local "candidate," or adopt or defeat a local ballot "measure," including but not limited to:

- Hiring or authorizing the hiring of campaign staff and consultants
- Spending or authorizing the expenditure of campaign funds
- Directing, supervising or conducting the solicitation of campaign contributions
- Selecting or recommending vendors or sub-vendors of goods or services for the campaign

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<sup>5</sup> Some local forms are also required to be filed electronically. The Ethics Commission has also prescribed an electronic filing format for FPPC Forms 461, 496 and 465; however, these forms are not used by candidate committees.

**“Campaign Strategy”** - means planning for the election, defeat, retention or recall of a local candidate, or for the adoption or defeat of a local ballot measure, including not but limited to:

- Producing or authorizing the production of campaign literature and print and broadcast advertising
- Seeking endorsements of organizations or individuals
- Seeking financing
- Advising on public policy positions

If you believe that an individual working on your campaign may qualify as a campaign consultant, please refer them to our [campaign consultant webpage](#) for more information.

See S.F. C&GC Code § 1.500.

## I. Termination Statements

Candidates who have committees are subject to filing and disclosure requirements until they terminate the committees. To terminate, a candidate must file a *Form 460* Termination Statement, showing an ending cash balance of zero, and a *Form 410* Termination Statement.<sup>6</sup> Generally, candidates terminate their committees after the election, however all candidate committees must be terminated prior to 24 months after the candidate is defeated, leaves office, or withdraws from an election, whichever occurs earliest. All active committees must file semi-annual Form 460 statements until the committee is terminated. Pre-election statements and other reports may be required depending on the committee’s activities. A committee may terminate only if the committee:

- Has ceased receiving contributions or making expenditures and does not anticipate receiving contributions or making expenditures in the future
- Has no remaining campaign funds
- Has filed all required campaign statements, disclosing all reportable transactions, including the disposition of leftover funds
- Has eliminated all debts, or has no intention or ability to discharge debts; and
- Has closed the committee bank account

See Cal. Gov't Code § 84214; CCR § 18404; CCR § 18404.1.

## J. Advertisement Disclosures (Disclaimers)

As is the case with other communications, a “Paid for by *committee name*” and “Financial disclosures are available at [sfethics.org](#)” disclaimer is required on a mass mailing. **For detailed information about disclaimer requirements and the relevant formatting rules, see the San Francisco Ethics Commission’s *Political Advertising***

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<sup>6</sup> The original Form 410 indicating termination must be filed with the SOS and a copy must be provided to the Ethics Commission when the candidate files the Form 460 indicating termination.

***Disclaimers Chart for Communications by City Candidate Committees for their own Election.***

**K. Itemized Disclosures for Mass Mailings**

Itemized Disclosure Statements for Mass Mailings A candidate committee that pays for a mass mailing must file a statement and a copy of the mailing within five business days of the date of the mailing or within 48 hours if the date of the mailing occurs during the 16 days immediately preceding the election

**L. Bundled Contributions**

A contribution is *bundled* when someone other than the contributor delivers or transmits the contribution to a candidate. However, *bundling* does not include the activities of paid or volunteer campaign staff, a campaign consultant, the campaign consultant's employees, the candidate, or the candidate's spouse.

If a candidate receives \$5,000 or more in contributions that were bundled by a single individual, the candidate must file a report with the Ethics Commission disclosing information about that individual (including name, occupation, employer, and mailing address), a list of the contributions bundled by that individual, and, if the individual is a member of a City board or commission, the name of the board or commission and the name of the City officer who appointed the individual to serve on the board or commission.

The deadline for filing the report is the same as the deadline for filing the committee's campaign statement ([Form 460](#)) that will include the contribution that makes the amount of bundled contributions from the individual total \$5,000 or more. For example, an individual bundles ten contributions of \$500 each for a candidate, and the individual delivers the tenth contribution to the candidate on June 30<sup>th</sup>. This tenth contribution brings the total amount of contributions bundled by that individual to \$5,000. Since the contribution was received on June 30<sup>th</sup>, the candidate must report this contribution on the Form 460 that is due on July 31<sup>st</sup> (view the Fair Political Practices Commission's [Filing Schedules](#) for more details). Since the Form 460 disclosing this contribution is due on July 31<sup>st</sup>, the candidate's bundling report is also due on July 31<sup>st</sup>.

## V. WHAT ARE THE LIMITS ON ACCEPTING CONTRIBUTIONS?

### A. Limits on Contributions to Candidates

Candidates may not solicit or accept more than \$500 from any contributor.<sup>7</sup> Loans are contributions and are subject to the same limits and disclosure requirements as other types of contributions. In other words, a person may not contribute more than \$500 cumulatively (i.e., in the form of monetary contributions, in-kind contributions or loans) to any candidate for City elective office. The \$500 contribution limit is an election cycle limit, not a calendar year limit.

A candidate who has received a contribution in excess of the limit may **not** return the illegal contribution to the contributor; any amount received in excess of the \$500 limit must be paid promptly to the General Fund of the City and County by mailing a check or paying online using our website. Please contact our office should you have questions about how to forfeit a monetary contribution.

A contribution is not considered to have been received if it is not negotiated, deposited, or utilized and is returned to the donor before the closing date of the campaign report on which the contribution would otherwise be reported. If the excessive contribution arrives within the final 16 days before the election, it is considered not received if it is not negotiated, deposited, or utilized and returned within 48 hours. There are limits on the amount of personal funds a candidate for the City elective office may loan to his or her campaign committee. At any given time, a candidate may not have more than the following amounts in loans from his or her personal funds (the rules are different for a candidate who receives public funding):

City Elective Office	Candidate's Personal Loan Limit (Non-Publicly Financed Candidates)
Board of Supervisors; Board of Education of SF Unified School District; Governing Board of SF Community College District	\$15,000
Mayor	\$120,000
City Attorney; Treasurer; Assessor; Public Defender; District Attorney; Sheriff	\$35,000

**A candidate for Mayor or the Board of Supervisors who receives public funding may not loan or donate, in total, more than \$5,000 of his or her own money to the campaign.**

<sup>7</sup> These contribution limits also apply to any special election held to fill City elective offices.

See S.F. C&GC Code §§ 1.114, 1.116, and 1.140.

**When a candidate contributes \$1,000 or more or loans \$1,000 or more to their candidate committee during the last 90 days before an election or on the date of the election, the candidate committee must file a Late Contribution Report [Form 497](#) within 24 hours of receiving the contribution or loan.**

See Cal. Gov't Code [§ § 82036](#) and [84203](#).

## **B. Aggregation of Contributions**

Contributions from affiliated entities must be aggregated for the purposes of the contribution limits. Contributions of an entity whose contributions are directed and controlled by any individual must be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual. If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities must be aggregated. Contributions made by entities that are majority-owned by any person must be aggregated with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decisions to make contributions.

*Example:* Larry Trinity is the sole proprietor and 100% owner of Trinity, Inc. Larry contributed \$500 from his personal account to Simon Seal, a candidate for Sheriff. Larry received an invitation to Seal's next fundraiser, which includes a five-course dinner cruise around the bay. Tickets to the fundraiser cost \$500. Can Larry use funds from Trinity, Inc.'s business account to pay for the ticket to the fundraiser?

*Answer:* No. Because Larry already donated the maximum amount to Seal from his personal account, neither Larry nor any entity of which he is the majority-owner may contribute any additional money to Seal. Accordingly, because Larry is the sole proprietor and 100% owner of Trinity, Inc., and Trinity does not act independently in making contributions, neither he nor Trinity, Inc. may purchase the ticket to Seal's fundraiser. Furthermore, since Trinity, Inc. is a corporation, it is not allowed to make contributions to candidates running for San Francisco City elective office (see Section C below).

Contributions made by children under age 18 are presumed to be a contribution from the child's parent or guardian and are counted towards the \$500 limit applied to the parent.

See S.F. C&GC Code § 1.114(e); Cal. Gov't Code [§§ 85308](#) and [85311](#); California Code of Regulations ("CCR") [§ 18428\(e\)](#).

### **C. Earmarking of Contributions**

Contributors may not make a contribution to any committee on the condition or with the agreement that it will be contributed to a particular candidate to circumvent the \$500 contribution limit. In other words, if someone has already contributed \$500 to a candidate for City elective office, that person cannot then make a contribution to a separate committee so that the separate committee can forward the money to the candidate. Candidates should not accept contributions that have been earmarked in this manner. See S.F. C&GC Code § 1.114(c).

### **D. Restrictions on Contributions from Corporations, Limited Liability Companies, and Limited Liability Partnerships**

Corporations, limited liability companies, and limited liability partnerships, whether for profit or not, may not make contributions to candidates for City elective office.

See S.F. C&GC Code § 1.114(b).

### **E. Ban on Accepting or Soliciting Contributions from Contractors Doing Business with the City**

Candidates for City elective office, City elective officers, and committees controlled by such candidates or City elective officers, may not solicit or accept contributions from City contractors who are seeking or recently entered into certain contracts with the City or the contractor's affiliates. The ban applies when:

- (1) the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District, or the San Francisco Community College District is a party to the contract,
- (2) the contract or series of contracts in the same fiscal year has a total anticipated or actual value of \$100,000 or more in a fiscal year, and
- (3) the City elective officer, a board on which that officer serves, or the board of a state agency on which the officer's appointee serves must approve that contract or series of contracts.

The ban applies once the City contractor submits a proposal for a contract that meets the criteria listed above. The ban ends either when the parties terminate contract negotiations or, if the contract is approved, after twelve months have elapsed from the date of approval.

During this period, the City elective officer, or any committee controlled by the City elective officer, may not solicit or accept a contribution from the following persons:

- any party or prospective party to the contract,
- the contracting party's board of directors and principle officers, including its chairperson, chief executive officer, chief financial officer, chief operating officer,
- any person with an ownership interest of more than 10 percent in the contracting party, or  
any subcontractor listed in the bid or contract.

The rule prohibits contributions not only to a City elective officer who must approve the contract but also to candidates for that office, and committees controlled by such officers or candidates.

See S.F. C&GC Code § 1.126.

#### **F. Prohibition on Contributions from Persons with a Financial Interest in a Land Use Matter**

Any person who has a *financial interest* in certain *land use matters* is prohibited from making a contribution to any committee controlled by an individual currently holding, or seeking election to, the office of Mayor, Supervisor, or City Attorney. Any entities that are directed and controlled by such a person are also prohibited from making such a contribution. Conversely, these officeholders, and candidates for these offices, may not solicit or accept contributions from such persons or from entities that they direct and control.

To ensure that your committee does not accept a contribution in violation of this rule, utilize one of the following methods:

**Safe Harbor:** A candidate or committee will not be subject to a penalty for accepting a contribution in violation of this rule if the contributor attests under penalty of perjury that the contribution is not prohibited under this section. The best way to obtain this attestation is through the proper use and retention of a contributor card, an example of which is available on the Ethics Commission's [website](#).

**Due Diligence:** Absent a signed contributor card, a committee can research whether a particular contributor has a financial interest in a land use matter in order to determine whether the contribution is lawful. The general steps you should follow are outlined in the next section.

See S.F. C&GC Code § 1.127.

#### **G. Steps for committees to determine whether a contribution is prohibited under 1.127**

*This section is designed to help committees understand how to determine whether a contribution would violate 1.127. It is relevant to candidates for Mayor, District*

***Supervisor, or City Attorney or any individual currently holding such office who is running for any other elective office.***

- A. As mentioned in section F., a signed contributor card which includes language regarding the prohibition on contributions received from contributors with a pending *land use matter* will prevent liability under section 1.127.
- B. Absent a signed attestation from the contributor, follow these steps to determine whether the contribution is prohibited under 1.127:
  - a. Ask the contributor to provide you with the following information. This will help you identify land use matters in which the contributor has a financial interest.
    - i. If the contributor holds an ownership interest of at least \$5,000,000 in a property or project that is the subject of a land use matter, ask them to list the property or project;
    - ii. If the contributor is a director or principal officer of an entity that holds an ownership interest of at least \$5,000,000 in a project or property that is the subject of a land use matter, ask them to list the property or project;
    - iii. If the contributor is the developer of a project with estimated contribution costs of at least \$5,000,000 that is the subject of a land use matter, ask them to list the project or property; and
    - iv. If the contributor is an entity, ask them to list any person who either directs and controls the entity or who owns a majority of the entity, if such person has a financial interest in a land use matter as described in items i, ii, or iii above. For any listed person, ask the contributor to list the project or property in which the person has a financial interest.
  - b. Once you have a list of all potential land use matters in which the person has a financial interest, verify that the matter is in fact a *land use matter* as defined in section 1.127 – “*Land Use Matter*” means (a) any request to a City elective officer for a Planning Code or Zoning Map amendment, or (b) any application for an entitlement that requires a discretionary determination at a public hearing before a City board or commission. “*Land Use Matter*” shall not include discretionary review hearings. Only matters that constitute *land use matters* as defined in section 1.127 trigger the contribution prohibition. To determine this, you should access public information about the matter by contacting the City board or commission before which the matter is or was

pending by selecting the appropriate board or commission below. Determine whether the matter is a land use matter by determining whether it constitutes: (a) a request to a City elective officer for a Planning Code or Zoning Map amendment, or (b) any application for an entitlement that requires a discretionary determination at a public hearing before a City board or commission (excluding discretionary review hearing). Only entitlements that *require* discretionary determinations at a public hearing constitute land use matters, regardless of whether the matter does in fact become the subject of a public hearing.

- i. [Planning Commission](#) – [Property Information Map](#)
  - ii. [Board of Appeals](#)
  - iii. [Board of Supervisors](#)
  - iv. [Building Inspection Commission](#)
  - v. [Office of Community Investment and Infrastructure](#)
  - vi. [Historic Preservation Commission](#)
  - vii. [Port of San Francisco](#)
  - viii. [Treasure Island Development Authority](#)
- c. If any of the land use matters disclosed to you by the contributor as *land use matters* under 1.127, determine whether a final determination or ruling has been issued in the matter whether any appeals have been finally resolved. If no such decision or ruling has been issued, or if one has but an appeal exists and has not been finally resolved, the contribution is prohibited.
- d. If a final decision or ruling has been issued, and any appeals have been finally resolved, determine the date on which the final decision or ruling was issued or, if an appeal took place, the date on which the appeal was finally resolved. If the date was less than twelve months before the date the contribution was made, the contribution is prohibited. If the date is twelve months or more prior to the date the contribution was made, the contribution is not prohibited.

#### **H. Other Important Prohibitions and Restrictions**

1. **Commingling of Funds** – Campaign funds may not be commingled with any individual’s personal funds; they must be kept in an account separate from any account that contains personal funds. In general, campaign funds may not be used for personal expenses.

2. **Prohibition on Soliciting Contributions from City Employees** – No candidate who is a City officer or employee may knowingly, directly or indirectly, solicit political contributions from other City officers, employees, or persons on employment lists of the City.
3. **Candidate loans vs. Candidate Contributions** – Candidates must first deposit personal funds into their campaign contribution account bank account prior to expending these funds in support their campaign if the candidate wishes to be reimbursed for the expense in the form of a loan to their committee. Candidates who expend personal funds without first depositing the funds into their campaign contribution bank account, **may not** be paid back from their campaign in the form of a loan, and the expenditure of the personal funds must be reported as a non-monetary contribution to the campaign.
- 4.

#### I. Contributor Card

If a candidate receives a written and signed confirmation from a contributor stating that the contribution does not violate certain campaign finance rules, then there will be a rebuttable presumption that the candidate did not violate those rules by accepting the contribution. Typically, this is done by having the contributor sign a contributor card. A sample contributor card that lists the applicable campaign finance rules is available on the Ethics Commission's [website](#).

See S.F. C&GC Code § 1.114.5(a)(2).

#### J. Receipt of Contributions

A contribution to a candidate committee is not considered received if it is not cashed, negotiated, or deposited and, in addition, if it is returned to the donor by the closing date of the campaign statement on which the contribution would otherwise be reported. If a contribution is made during the final 16 days before an election at which the candidate is to be voted on (the "late reporting period"), the contribution must be returned within 48 hours of receipt.

Committees who receive contributions as outlined above, who fail to disclose full contributor disclosure information at the time their FPPC Form 460 campaign finance statement is due, must forfeit the contribution amount to the City and County of San Francisco's General Fund. The contribution **may not** be refunded to the contributor, failure to comply with this requirement may result in enforcement related penalties. For more information on contribution forfeiture, please see **Forfeiting Contributions** on pg. 27.

See S.F. C&GC Code § 1.114(g).

#### **K. Cash Contributions Must be Less than \$100**

Candidates may not accept contributions in the form of cash or money orders that total \$100 or more from a single contributor. A candidate may not accept \$100 in cash (e.g., paper money, money orders, and cashier's checks). The FPPC has advised that committees should not accept more than \$99.99 in cash, even if they give change back to the contributor. For example, if a contributor gives \$100 in cash, the committee may not give change of \$0.01 in order to comply with the \$99.99 cash limit.

A monetary contribution of \$100 or more may be accepted by candidates only if it is in the form of a written instrument, such as a check or credit card (along with documentation reporting a record of a transfer of funds drawn from the contributor's account).

See Cal. Gov't Code [§ 84300](#).

#### **L. Coordination of Expenditures**

When a candidate coordinates expenditures with a committee, expenditures made by that committee may be deemed contributions to the candidate subject to the contribution limits applicable to candidates. In order for an expenditure to be independent, it must **not** be made at the behest of the candidate; nor may the candidate coordinate, cooperate, consult, act in concert with or otherwise control the expenditure. In these cases, the expenditure shall be treated as a contribution. A candidate's provision to another person or entity of a photograph, biography, position paper or press release that is then used in connection with an expenditure is not deemed coordination, absent other facts indicating coordination.

See CCR [§ 18225.7](#); Cal. Gov't Code [§ 82031](#); S.F. C&GC Code § 1.115.

#### **M. Solicitation and Receipt of Campaign Contributions by Appointed Boards and Commissions**

State law prohibits members of appointed boards and commissions from soliciting contributions in excess of \$250 from persons who are parties to, or participants in, proceedings pending before them, and from making decisions affecting a source of campaign contributions of more than \$250. For further information on this ban, please see California Government Code section [84308](#) or contact the [FPPC](#).

### **VI. HOW MAY I SPEND CAMPAIGN FUNDS?**

#### **A. Use of Campaign Funds and Surplus Funds**

A candidate may use funds in his or her campaign account for only two purposes:

- (1) running for City elective office; and
- (2) if elected, paying for expenses associated with holding that office.

A candidate may **not** use campaign funds to support any other candidate, to support or oppose any ballot measure, or to contribute to any charitable organization. Also, campaign funds may not be used to compensate a candidate's spouse or domestic partner for any services rendered to the campaign.

A candidate who has ceased to be a candidate or who fails to qualify for the ballot must dispose of his or her unused campaign funds by

- (1) returning the funds on a "last in, first out" basis to the candidate's contributors,
- (2) donating the funds to the City or a charitable organization,
- (3) paying outstanding campaign debts, or
- (4) paying expenses associated with terminating the committee, such as bookkeeping, legal fees, preparation of campaign statements, and audits.

Similarly, when campaign funds become surplus funds, the candidate must return any unused campaign funds to his or her contributors on a "last in, first out" basis and /or donate the funds to the City or a charitable organization, use the funds to pay outstanding campaign debt or to pay expenses associated with terminating the committee. Surplus funds are funds that remain in a candidate's campaign account at the time the candidate leaves City elective office, or at the end of the post-election reporting period following the defeat of the candidate, whichever occurs last.

See Cal. Gov't Code [§ 84307.5](#); S.F. C&GC Code § 1.122.

#### Use of Remaining Funds for a Future Election

To use funds remaining in the campaign bank account for a future election, a candidate must take the following actions no later than the date that the funds become surplus funds: file a new Form 501 Candidate Intention Statement, file a Declaration of Intention to Solicit/Accept Contributions, open a new bank account, and file a new Form 410 Statement of Organization for the future office (i.e., establish a new committee). A candidate may use the same committee only if the funds will be used for a future election to the same office. Once funds become surplus campaign funds, they are subject to the restrictions discussed above and may not be used for a future election.

If you decide to use your remaining funds for a future office, you must attribute the funds to contributors using a "first in, first out" or "last in, first out" accounting method. You must file a statement, [Form SFEC-122](#), with the Ethics Commission to disclose whether you used "first in, first out" or "last in, first out." The statement must also include information regarding the contributions that were transferred, such as the date of the contribution, the contributor's name and the contribution amount. You must also itemize such contributions on the first [Form 460](#) that you file for your new committee.

Candidates for Mayor or the Board of Supervisors who receive public funding should consult the relevant supplemental guide because additional requirements and restrictions apply to funds that remain after the election.

**Improper usage of campaign funds may result in enforcement related penalties.**

See Cal. Gov't Code § 89519; CCR § 18951; S.F. C&GC Code § 1.122.

## **B. Officeholder Expenses**

Candidates who are officeholders may not establish a separate officeholder account. Officeholder expenses may be paid from the candidate's campaign account in accordance with state law.

See S.F. C&GC Code § 1.108; Ethics Commission [Advice Letter](#) (June 17, 2002); Cal. Gov't Code § 89510(b).

## **VII. WHAT ARE THE RULES THAT APPLY TO CAMPAIGN ADVERTISING AND MAILERS?**

### **A. Political Advertising Disclosures (Disclaimers)**

State and local laws impose disclosure requirements on committees that pay for communications. In general, a candidate committee making expenditures for communications must include the following disclosure statements:

- 1) "Paid for by [*insert committee name*]" and
- 2) "Financial disclosures available at sfethics.org"

Mass mailings also require the sender's address. In addition to the disclosures listed above, the FPPC also recommends including the committee's ID number on all public campaign materials.

**For detailed information about these requirements and the relevant formatting rules for various communication types, please see the *San Francisco Ethics Commission's Political Advertising Disclosure Chart for Communications by City Candidate Committees for their own Election.***

**Failure to properly comply with advertisement disclosure requirements may result in enforcement related penalties.**

### **B. Local Law Filing Requirements**

Candidates must file a "mass mailing" report ([SFEC Form 161](#)) when s/he sends over two hundred substantially similar pieces of mail supporting his or her candidacy. The report and the copy of the mailing are due within 5 working days of the mailing, unless the

mailing occurs within the final 16 days before the election, in which case the report is due within 48 hours. This form and mailing may be filed in paper format or emailed to [ethics.commission@sfgov.org](mailto:ethics.commission@sfgov.org).

Form 161 discloses the itemized costs associated with the mailing, including but not limited to the amounts paid for photography, design, production, printing, distribution and postage. The candidate must show each separate charge or payment for each cost associated with the mass mailing. If the actual cost of the mailing is not known at the time of filing Form 161, a candidate may provide a good-faith estimate of costs. In the instance that an estimate is provided, the candidate must amend this statement within 48-hours after s/he receives concise information regarding the actual costs of the mass mailing.

See S.F. C&GC Code § 1.161.

### **VIII. IS PUBLIC FUNDING OF CAMPAIGNS AVAILABLE?**

San Francisco's public financing program provides partial public funding for candidates for Mayor or the Board of Supervisors to help defray the costs of elections. Candidates for Mayor or the Board of Supervisors should consult the relevant [Supplemental Guide](#) to learn about requirements relating to the public financing program.

### **IX. WHAT ARE THE CONSEQUENCES OF VIOLATING THE REPORTING REQUIREMENTS?**

Any person who violates any of the reporting requirements, in either state or local law may be subject to fees, penalties and/or imprisonment. Fines vary depending on the violation but potentially are significant and can be as much as \$5,000 per violation, or three times the amount of money received or spent in excess of legal limits, whichever is greater.

In addition to any other penalties that may be imposed, late fees for filing campaign reports after the filing deadline are \$10 per day for paper filings, limited to the amount of activity during the reporting period or \$100, whichever is greater. The late fee for Forms requiring electronic statements is \$25 per day and is limited to the cumulative amount reported for the period covered by the late statement or \$250, whichever is greater.

Failure to report contributions or provide complete contributor information may result in forfeiture of the contributions. Prior to depositing contributions that total \$100 or more, a committee must obtain and report complete contributor information including the contributor's name, date of contribution, the contributor's street address and the contributor's occupation and employer information.

Employer information for contributors who are not employed, such as students, retired, or unemployed individuals may be reported by listing the same information in both the occupation and employer fields (i.e., Occupation: "Student", Employer: "Student", or

Occupation: “Not employed”, Employer: “Not employed”). Committees must report the business name of self-employed contributors. For self-employed contributors, indicate the occupation (i.e., “painter”) and the name of the entity that is on the contributor’s paycheck as the business name. Some professions such as “owner” or “manager” require a business name, while others (i.e., “babysitter”) may or may not. Please contact Ethics Commission staff if you have questions.

Failure to obtain and report contributor information on campaign statements, accepting contributions in excess of the contribution limit, accepting contributions from corporations or accepting contributions from contractors who do business with the City may result in the forfeiture of such contributions to the City’s General Fund, in addition to other penalties.

### **Forfeiting Contributions**

If you believe that you received a contribution which violated the Ordinance, please make a check payable in the amount of the contribution to the City and County of San Francisco for forfeiture of the violating contribution. You may either mail this payment with a memo indicating the contribution date(s), the contributor(s) name, and reason for forfeiture to our office at the address below, or you may pay and add the required information electronically ([Pay Fees](#) – Select fee type: Remittance)

Make check payable to: City and County of San Francisco  
Mailing address:  
San Francisco Ethics Commission  
25 Van Ness Ave. Suite 220  
San Francisco, CA 94102

See S.F. C&GC Code §§ 1.106, 1.114, 1.114.5, 1.126 and 1.170; and Gov't Code [§ 91000](#) *et seq.*

## **X. ARE CANDIDATES SUBJECT TO AUDITS?**

Each committee’s campaign activity may be subject to [audit](#) by the [Ethics Commission](#), the [FPPC](#) or the [Franchise Tax Board](#). Audits are conducted to determine whether committees have complied with applicable requirements and prohibitions imposed by State and local law. All candidates who receive public funding are audited. The Ethics Commission additionally selects non-publicly funded candidate committees from each election cycle for audit. As stated above, treasurers should retain records related to contributions and expenditures for four years from the date that the campaign statement disclosing such contributions and expenditures is filed. Upon notification of an audit, committees must promptly provide access to committee records.

**Failure to maintain accurate and complete committee campaign records, may subject the committee to audit related findings and enforcement related penalties.**

See S.F. Charter, Article XV, [C3.699-11\(4\)](#); S.F. C&GC Code § 1.150; and Gov't Code § 90000, *et. seq.*

## **XI. CONCLUSION**

As noted above, this guide is intended to answer frequently asked questions about laws applicable to recipient committees other than candidate-controlled committees and is necessarily general. Any specific questions regarding these laws should be directed to the Ethics Commission at [ethics.commission@sfgov.org](mailto:ethics.commission@sfgov.org) / (415) 252-3100), or the California Fair Political Practices Commission's toll-free number at (866) 275-3772. Questions regarding San Francisco local laws should be directed to the Ethics Commission.